



Department of Health

Mike DeWine, Governor
Jon Husted, Lt. Governor

Amy Acton, M.D., MPH, Director

August 19, 2019

MuckRock News
Department MR 77053
411A Highland Ave.
Somerville, MA 02144-2516

Re: Public Records Request

Dear Mr. Patel:

The Ohio Department of Health is in receipt of your public records request made pursuant to R.C. 143.43. You requested the following: 1) any public records requests, as well as any provided responses or responsive materials, submitted by groups listed in the request; 2) all communications between the Department and the groups listed since January 1, 2015 and 3) any and all documents containing the keywords listed in your request.

Your request is overbroad and does not identify, with reasonable clarity, the records you seek. As the Ohio Supreme Court has repeatedly held, "it is the responsibility of the person who wishes to inspect and/or copy records to identify with reasonable clarity the records at issue." *State ex rel. Glasgow v. Jones*, 119 Ohio St. 3d 391, 2008-Ohio-4788, quoting *State ex rel. Morgan v. New Lexington*, 112 Ohio St. 3d 33 (additional citations omitted). The *Glasgow* decision also cites to *State ex rel. Dillery v. Icsman*, 92 Ohio St.3d 312, 2001-Ohio-193, as precedent for the Court's holding that a request for "all...work related email messages" is overly broad. In *Dillery*, the request was to a police chief for "any and all records generated....containing any reference whatsoever to Kelly Dillery." Your requests may also be a request to duplicate entire categories of records, which is also overbroad. *State ex rel. Zidonis v. Columbus State Cmty. College*, 133 Ohio St. 3d 122, 2012-Ohio-4228, 976 N.E.2d 861, ¶ 21; *State ex rel. Dehler v. Spatny*, 127 Ohio St. 3d 312, 2010-Ohio-5711, ¶¶ 1-3. An agency is not under obligation to organize records in electronic or other media such that they can be retrieved based on a keyword search, *State ex rel. Thomas v. Ohio State University*, 71 Ohio St.3d 245, 245, 643 N.E.2d 126 (1994), or to maintain e-mail records so that they can be retrieved based on "sender and recipient status." *Zidonis, supra*, ¶¶ 28-32.

A governmental office has no duty to create new records to respond to a public records request, even if it is only a matter of compiling information from existing records. *State ex rel. White v. Goldsberry*, 85 Ohio St.3d 153, 707 N.E.2d 496 (1999). Nor must the office "seek out and retrieve those records which would contain the information of interest to the requester." *State ex*

rel. Fant v. Tober, 8th Dist. No. 63737 (Apr. 28, 1993); *aff'd* 68 Ohio St.3d 117, 623 N.E.2d 1202 (1993). That is, a public office is under no obligation to search for records containing selected information. *State ex rel. Thomas v. Ohio State University*, 71 Ohio St.3d 245, 643 N.E.2d 126 (1994).

However, in an effort to be cooperative, the Department is providing public records requests and responses, where available, from January 1, 2015, to the date of your request. The Department does not maintain the responsive records sent with each request unless the response was sent electronically.

You may wish to clarify or modify your request. Please note that your request must be more specific than just asking for whole record categories without any limitation as to content or time period. *Zidonis, supra*, ¶¶ 21-23.

I am available to work with you to revise your request so that we can identify the records you seek based on the manner in which public records are organized and kept by the Department of Health. Please feel free to contact me at (614) 466-4882 at your convenience.

Sincerely,


Heather Coglianese
Senior Legal Counsel

Enclosure: CD